

TITLE 14: COMMERCE  
SUBTITLE C: ECONOMIC DEVELOPMENT  
CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

PART 691  
BACK TO BUSINESS GRANT PROGRAM

SUBPART A: GENERAL PROVISIONS

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SUBPART A: GENERAL PROVISIONS

**Section 691.10 Purpose**

The purpose of the Back to Business Grant Program ("Program") is to provide financial support to for-profit businesses or not-for-profit organizations that have experienced economic harm, financial hardship, *or other adverse conditions due to the COVID-19 public health emergency* [20 ILCS 605/605-1050]. In this Part, financial assistance provided through the Program shall be consistent with the requirements of the Coronavirus State Fiscal Recovery Fund ("CSFRF") implemented by Section 602 of Title VI of the federal Social Security Act (42 U.S.C. 802 et seq.) and any rules or guidance issued by the U.S. Department of the Treasury (including, but not limited to <https://www.govinfo.gov/content/pkg/FR-2021-05-17/pdf/2021-10283.pdf> and

<https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>), the Department of Commerce & Economic Opportunity ("DCEO"), and any other applicable State and federal agency. Financial assistance shall be prioritized for communities most in need of assistance, as determined by numbers or rates of infection and economic measures identified in this Part. Assistance may be used to adopt safer operating procedures, weather periods of closure, or mitigate financial hardship resulting from the COVID-19 public health emergency. DCEO will identify how the Program addresses the identified need or impact faced by small businesses. The Program may utilize a series of funding opportunities.

## **Section 691.20 Definitions**

"Affiliate" means another business that is at least 50% or more owned or controlled by a person with at least 50% ownership or control of the Applicant.

"Allowable Expenditure" means a necessary expenditure that the Department has authorized for reimbursement under the Program in accordance with Section 691.110.

"Applicant" means a Qualifying Business that applies for funding under the Program.

"ARPA" means the American Rescue Plan Act (P.L. 117-2).

"Authorized Representative" is an individual with legal authority to bind the business or non-profit organization.

"Business" means a for-profit enterprise or non-profit organization lawfully conducting business in Illinois.

"Business district(s)" means an area containing shops and offices where persons engage in the purchase and sale of commodities or in related financial transactions.

"COVID-19" means *the novel coronavirus disease deemed COVID-19 by the World Health Organization on February 11, 2020*.

"COVID-19 Public Health Emergency" means the Statewide public health emergency declared March 9, 2020, the national public health emergency declared March 13, 2020, and the major disaster declared in Illinois by the President on March 26, 2020.

"COVID-19 Prevention Directives" means all state laws, orders, administrative rules and guidance relevant to and in effect during the COVID-19 Public Health

Emergency that pertain to preventing the spread of COVID-19, including Executive Orders and preventative guidelines issued by the Illinois Governor, the Illinois Emergency Management Agency, the Department, or the Illinois Department of Public Health.

"CSFRF" means the Coronavirus State Fiscal Recovery Fund as implemented by Section 602 of Title VI of the federal Social Security Act [42 U.S.C. 802].

"Department" means the Illinois Department of Commerce and Economic Opportunity.

"Disproportionately Impacted Area" means those zip codes most severely affected by the COVID-19 Crisis, to be determined based on positive COVID-19 case per capita rates, and high rates in at least one of the following poverty-related categories relative to other zip codes within their region:

- share of population consisting of children age 6 to 17 in households with income less than 125% of the federal poverty level;

- share of population consisting of adults over age 64 in households with income less than 200% of the federal poverty level;

- share of population in household with income less than 150% of the federal poverty level; and

- share of population consisting of children ages 5 and under in households with income less than 185% of the federal poverty level.

"GATA" means the Grant Accountability and Transparency Act [30 ILCS 708].

"GATA Rule" means 44 Ill. Adm. Code 7000.

"Financial Assistance" means financial support to an Illinois business in the form of a grant, expense reimbursement, or subsidy.

"Non-Profit Organization" means an organization which is registered as a not-for-profit corporation with the Illinois Secretary of State and is registered with the Internal Revenue Service as a 501(c)(3), 501(c)(6), or as a 501(c)(19).

"Program" means the financial assistance program funding opportunities administered by the Department and implemented in this Part.

"Program Participant" means the business that receives financial assistance under the Program.

"Qualifying Business" means a business or organization that has experienced or is experiencing business interruption or other adverse conditions due to the COVID-19 public health emergency, and includes a new business or organization started after March 1, 2020 in the midst of adverse conditions due to the COVID-19 public health emergency, includes self-employed individuals and independent contractors.

"Qualified Partner" means *a financial institution or non-profit organization with which the Department, or another state agency pursuant to an intergovernmental agreement with the Department, has entered into an agreement or contract to provide or incentivize assistance to Qualifying Businesses.* [20ILCS 605/605-1050(g)(5)].

"Revenue" means the total amount a business or a non-profit organization has received from sales or contributions during its annual accounting period, without subtracting any costs or expenses. Revenue is equal to the gross receipts of a business or non-profit organization as reported on their federal tax return.

"SLFRF" means the Federal Coronavirus State and Local Fiscal Recovery Funds.

"Small business" means a business that earns gross receipts less than \$20 million annually.

"Smallest business" means a business that earns gross receipts less than \$5 million annually.

"Targeted Funding Opportunity" means a formal announcement of the availability of funding through the Program from the Department for a Qualifying Business that operates in an industry or an area that has been the most disproportionately impacted by the COVID-19 Public Health Emergency.

"Uniform Guidance" means the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards ("Uniform Guidance"), codified at 2 CFR 200.

### **Section 691.30 GATA Requirements**

- a) The Program is subject to the Grant Accountability and Transparency Act [30 ILCS 708], with any exceptions granted by GOMB.

- b) To the extent the Program is implemented using grant agreements, at a minimum, the provisions of 2 CFR 200.303 and 200.330 through 200.332 of the Uniform Guidance apply to grant recipients.

#### **Section 691.40 Qualified Partners**

- a) The Department may enter into grant agreements, contracts, or intermediary agreements with Qualified Partners to implement the Program. The Department may award grants to Qualified Partners to provide financial assistance to Qualifying Businesses or contract with Qualified Partners to secure services to implement the Program. The nature of the services provided by a Qualified Partner shall determine whether the arrangement is a grant, procurement, or other relationship.
- b) A Qualified Partner shall operate as a non-profit organization registered to conduct business in the State of Illinois or a financial institution that has demonstrated experience providing financing or services to businesses or residents located in Disproportionately Impacted Areas.
- c) An agreement with a Qualified Partner shall specify the qualified partner's responsibility, if any, for determining Qualified Business' eligibility for financial assistance and monitoring Program Participants for compliance with Program requirements.
- d) In accordance with 20 ILCS 605/605-1050(h), nothing in this Part shall restrict the Department from securing services from entities other than Qualified Partners to assist in implementing the Program.

#### **Section 691.50 Prioritization**

- a) The Department may provide targeted funding opportunities for industries and businesses most impacted by the COVID-19 Public Health Emergency. In determining which industries and businesses to prioritize, the Department will consider the impact of compliance with the COVID-19 Prevention Directives on business operations or the impact of the COVID-19 Public Health Emergency on the impacted industry. The Department will also prioritize funding to small businesses. Assistance may be targeted to businesses facing financial insecurity, with substantial declines in gross receipts, or facing other economic harm due to the pandemic, as well as businesses with less capacity to weather financial hardship, such as the smallest businesses, those with less access to credit, or those serving disadvantaged communities. The Department will make this determination on whether to provide targeted funding opportunities based on an

ongoing assessment regarding the needs of the business community and announce the targeted funding opportunities on its website.

- b) To prioritize funding for industries and business districts that were not enumerated within ARPA, the Department shall maintain an assessment for a period of 5 years, from the date a prioritized industry is selected, that outlines how these industries or business districts experienced a negative economic impact due to the pandemic comparable to enumerated industries. Additionally, the Department shall outline how program funding will address this negative economic impact.

#### **Section 691.60 Disproportionately Impacted Areas**

- a) The Department will allocate no less than 40% of program funding to Qualifying Businesses located in Disproportionately Impacted Areas.
- b) A Disproportionately Impacted Area may be added or removed from prioritization based on changes in relative COVID-19 rates and economic distress. If the Department recategorizes an area, removing its designation as a disproportionately impacted area, businesses that have applied prior to that update will maintain the previous prioritization status.
- c) In determining prioritization of industries or zip codes within Disproportionately Impacted Areas, the Department will give greater weight to areas that had significantly higher rates of COVID-19 cases per capita and zip codes with higher levels of poverty.
- d) The Department shall maintain records for a period of 5 years, from the date a prioritized zip code or industry is selected, the assessment of how the Department identified each Disproportionately Impacted Area.

#### **Section 691.70 Eligible Applicants**

- a) An eligible applicant for financial assistance under the Program is a business operating within the State of Illinois that:
  - 1) annually earns a gross income of \$20 million or less except for hotels, which may annually earn a gross income of \$35 million or less;
  - 2) for purposes of determining loss, was in operation as of December 2019;

- 3) earned less gross income during the 2020 calendar year than the 2019 calendar year due to the negative impact of the COVID-19 pandemic, and that total loss exceeds \$5,000;
  - 4) temporarily closed, had reduced operations, or experienced depressed consumer demand during the COVID-19 pandemic; and
  - 5) is not excluded due to select funding rounds providing financial assistance for prioritized industries.
- b) In determining whether an applicant is eligible under the revenue requirement as identified under subsection (a)(1), a business shall include all gross income earned from any applicable parent company, affiliate, and subsidiary to determine the total amount earned by an applicant.
- c) The following businesses are ineligible to participate in the Program:
- 1) independent contractors or freelance workers that do not operate a sole proprietorship;
  - 2) child care providers that have received and/or are registered for Child Care Restoration Grants;
  - 3) a private club or business that limits membership for reasons other than capacity;
  - 4) a business primarily engaged in speculative activities that develop profits from fluctuations in price rather than through normal course of trade;
  - 5) a business that earns more than a quarter of its annual net revenue from lending activities, unless the business is a non-bank or non-bank holding company certified as a Community Development Financial Institution (CDFI);
  - 6) a business that derives at least 33% of its gross annual revenue from legal gambling activities;
  - 7) a business engaged in pyramid sales, where a participant's primary incentive is based on the sales made by an ever-increasing number of participants;

- 296 8) a business engaged in activities that are prohibited by federal law or  
297 applicable law in the jurisdiction where the business is located or  
298 conducted;  
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  - 300 9) a business that derives a majority of its income as an owner of real  
301 property that leases that property to a tenant or tenants under a lease  
302 agreement;  
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  - 304 10) a business principally engaged in teaching, instructing, counseling, or  
305 indoctrinating religion or religious beliefs, whether in a religious or  
306 secular setting;  
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  - 308 11) a government-owned business entity (except for businesses owned or  
309 controlled by a Native American tribe);  
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  - 311 12) a business primarily engaged in political or lobbying activities;  
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  - 313 13) a business that manufactures or sells at wholesale tobacco products or,  
314 liquor or that manufactures or sells firearms at wholesale or retail;  
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  - 316 14) a night club or strip club;  
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  - 318 15) an employment agency;  
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  - 320 16) a pawn shop;  
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  - 322 17) a liquor store;  
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  - 324 18) a storage facility, trailer-storage yard or junk yard;  
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  - 326 19) an establishment similar to any enumerated above; or  
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  - 328 20) a business in which a majority owner has a financial or familial connection  
329 to a director, principal shareholder or leadership member of the  
330 Department or Department's partner under the program.  
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- 332 d) In addition to the exclusions listed in subsection (c), a business is excluded from  
333 participating under this Program if that business is:  
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- 335 1) Noncompliant with COVID-19 Prevention Directives;  
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  - 337 2) Delinquent on payment of any State of Illinois tax obligation;  
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- 3) On the Illinois Stop Payment List or in default of any contractual obligation to the Department;
- 4) Engaged in a business that is unlawful or ineligible under State or federal law;
- 5) On the federal System for Award Management excluded parties list (<https://sam.gov/content/exclusions>); or
- 6) Does not meet any other eligibility criteria established in a financial assistance application.

### **Section 691.80 Form of Financial Assistance**

Financial Assistance under the Program may be in the form of a grant, subsidy, or expense reimbursement, to respond to the negative economic impacts of the COVID-19 public health emergency. Regardless of the assistance structure, a Program Participant shall be obligated to comply with requirements outlined in this Part and any accompanying agreements incorporated within an application for Financial Assistance.

### **Section 691.90 Financial Assistance Application Process**

- a) Interested businesses shall apply to this Program, utilizing an electronic application, which the applicant will access by visiting the Department's website and clicking the appropriate hyperlink that will forward the applicant to the application portal administered by the Qualified Partner of the Department. If the Department announces additional funding opportunities requiring an applicant to use a different application procedure, that information will be made available on its website.
- b) Applicants selected for an award shall be required to sign a certification agreement that attests to their eligibility for the Program and compliance with programmatic requirements for funding as described in this Part.
- c) To assist in determining whether an applicant is eligible and to ensure compliance with State and federal requirements, Qualified Partners will request the applicant to submit the following documentation with their application:
  - 1) Business Owner/Representative Valid Identification (Driver's License, State ID, Passport, or Matricular Consular Card);
  - 2) 2019 Federal Income Tax Return;

- 3) 2020 Federal Income Tax Return;
  - 4) Completed W-9 form;
  - 5) Most recent bank statement;
  - 6) One monthly business bank statement between April 1, 2020 and December 31, 2020 that reflects business expenses;
  - 7) Data Universal Numbering System (DUNS) number or other unique identifier requested by the Department and;
  - 8) Any other information or proof necessary to confirm the existence of the applicant and its eligibility to participate in the Program.
- d) Completed application materials must be signed by the applicant's authorized representative and received by the Department or the entity processing the application by the announced deadline for the submission of applications.
- e) If an applicant has been marked ineligible or not belonging to a priority grouping, the Qualified Partner will provide electronic notice of their ineligibility or priority status. The notice will contain the reason for ineligibility or the priority change and a link to a decision appeal form. The Qualified Partner's appeals team will review appeals by rereviewing the application, the appeal form, and any supporting documentation provided by the applicant. Upon conclusion of this review, the Appeals team will provide a follow-up email to the business identifying a decision and supporting evidence for that decision. Our Qualified Partner will review appeals until funds are exhausted.

#### **Section 691.100 Selection Process**

- a) The Department or its Qualified Partners shall select awardees under the Program using a competitive scoring model. Businesses will receive a higher score if they meet any of the following priority codes:
- 1) Deemed a smaller business;
  - 2) Located with a DIA;
  - 3) Has yet to qualify for state or federal assistance; or
  - 4) Has been prioritized as a hard-hit industry (full list of priority industries on Department website).

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- 426           b)     For eligible applicants selected, excluding hotels, the amount of financial
- 427                     assistance made available by the Department will be based upon one-sixth of the
- 428                     decline in revenue from the 2019 calendar year to the 2020 calendar year, as
- 429                     supported by relevant information provided by the applicant in their federal tax
- 430                     return filings. The award will be equal to the loss of revenue rounded up to the
- 431                     nearest \$5,000. Each eligible applicant may qualify for an award of financial
- 432                     assistance up to \$150,000. Eligible applicants who applied on behalf of various
- 433                     entities owned by the applicant may receive an award for each business. However,
- 434                     the total amount of funding an eligible applicant that owns multiple eligible
- 435                     businesses may receive shall not exceed \$300,000 in assistance.
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- 437           c)     Hotels that annually earn gross receipts equal to or less than \$35 million may
- 438                     qualify for an award of financial assistance up to \$250,000. All other
- 439                     requirements of Section 100 (b) apply to this provision.
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441     **Section 691.110 Allowable Expenditures**

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- 443           a)     ARPA permits program funding to be used to respond to the COVID-19 crisis and
- 444                     its negative economic impacts.
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- 446           b)     Allowable expenditures under ARPA include permitted expenses incurred on or
- 447                     after March 1, 2020, and up to December 31, 2024, providing obligations incurred
- 448                     by December 31, 2024, are expended by December 31, 2026. Eligible expenses
- 449                     include supporting payroll and benefits costs, costs to retain employees, mortgage
- 450                     payments, rent or utility costs, and other operating costs. Additionally, eligible
- 451                     expenses also include costs to implement COVID-19 Prevention or mitigation
- 452                     tactics, such as physical plant changes to enable social distancing, enhanced
- 453                     cleaning efforts, construction of barriers or partitions, and related expenses
- 454                     according to U.S. Department of the Treasury guidance and ARPA.
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- 456           c)     The Department will identify allowable expenditures under the Program and
- 457                     outline those permitted expenses on the Department's website. The Department
- 458                     will utilize ARPA and the applicable rules and guidelines furnished by the federal
- 459                     government to establish the State's guidelines regarding allowable uses. It will
- 460                     update this information as more federal guidelines become available.
- 461
- 462           d)     Expenditures that have been or will be reimbursed under other programs that
- 463                     utilize federal funds are not allowable under this program.
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465     **Section 691.120 Reporting Requirements**

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Each Program Participant and Qualified Partners shall submit all reports required pursuant to any project and expenditure reporting requirements identified by the Department of the Treasury in a format and at a time required by the Department. As this information becomes more readily available through federal rules and guidelines, the Department will include this information on its website and other available mediums.

### **Section 691.130 Recordkeeping Requirements**

- a) Program participants shall maintain, for 5 years from the date the award was last expended or returned to the Qualified Partners, adequate books, financial records and supporting documents, statistical records, and all other records pertinent to awards made under this Program. If any litigation, claim, or audit is started before the expiration of the retention period, the records must be retained until all litigation, claims, or audit exceptions involving the records have been resolved, and final action is taken.
- b) Program participants shall provide or make available all records related to awards made under this Program to the Qualified Partner, the Department or to the U.S. Department of the Treasury upon request, and to any authorized oversight body, including, but not limited to, the Illinois Attorney General, the Illinois Auditor General, the Illinois Office of the Executive Inspector General, the Government Accountability Office ("GAO"), Treasury's Office of Inspector General ("OIG"), and the Pandemic Relief Accountability Committee ("PRAC").

### **Section 691.140 Noncompliance**

A Program Participant shall return all funds provided under the Program if it does not comply with any requirements in this Part or breaches any material term of the Financial Assistance agreement or certification. A material term is any term that relates to eligibility for Program participation, reimbursement under the SLFRF, or compliance with State and federal law, including COVID-19 Prevention Directives. Recovery of funds in the event of noncompliance may be effectuated by any means authorized under Illinois law, including the Grant Funds Recovery Act for any Financial Assistance in the form of a grant of the Illinois False Claims Act for any Financial Assistance gained using false information.